IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FOURTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 17443 of 2003

Between:

T.K.S.Sri Raman S/o.T.K.S. Rangan, Helpher(Electrical)
O/o.the Deputy Executive Engineer(East) (Electricals)

Tirumala Tirupathi Devasthanams,

Tirumala, Chittoor Distirict.

..... PETITIONER

AND

1 The Executive Officer, Tirumala Tirupati Devastanams,

Tirumala, Chittoor District
2 The Government of Andhra Pradesh rep., by its Principal Secretary
Revenue(Endowments -III)

Department Secretariat Buildings, Hyderabad.

3. P.Sarada, W/o. Venkatesulu, Hindu, Aged 28 years,

R/o 20-02-628/02, Korlagunta,

Murthi Nagar, Triupati,

Chittor District.

4 C.Chinna Reddappa, S/o C.Reddappa, Occu: Assistant Wireman (electrical) O/o. Deputy Executive Engineer(Electrical), South Sub- division, TTD, Tirumala, Chittor District.

....RESPONDENTS

Respondent No.3 is impleaded as per Court order dated 27-02-2004 in W.P.M.P.4118 of 2004.Respondent No.4 impleaded as per Court order dated 14.07.2004 in W.P.M.P.No.6788 of 2004.

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of mandamus directing the respondents to include B.Tech Qualifications also as one of the minimum qualifications required as preference and/or with some ratio and to promote the petitioner as Draughtsman Grade-II from the cadre of Helper, by holding the action of the respondents in doing so as bad, illegal, arbitrary, irregular, unconstitutional besides being contrary to public interest.

Counsel for the Petitioner: Mr.P.V.Sanjay Kumar, Advocate

Counsel for the Respondent No.1: U.Meenakshi, Standing Counsel.

Counsel for the Respondent No.2: G.P. for Endowments.

Counsel for the Respondent No.3: Mr.Ganduri Nageswara Rao, Advocate.

Counsel for the Respondent No.4: Mr.T.P.Vinayaka Swamy, Advocate.

The Court made the following:

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ORDER:

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1. The writ petitioner is working as Helper in the Electrical Wing of the Engineering Department of Tirumala Tirupati Devasthanam. New posts of Draughtsman (Electrical) Grade II were created by an order of the State Government in G.O.Ms.No.909 dated 20-08-2003. The Tirumala Tirupati Devasthanam by a communication dated 31-08-2003 requested the Government, inter alia, to prescribe the method of recruitment to the post of Draughtsman (Electrical) Grade II. In view of the fact that the post was not enumerated in the Tirumala Tirupati Devasthanam service rules, in so far as appointment to the post of Draughtsmen (Electrical) Grade II by the method of appointment by promotion is concerned, the Tirumala Tirupati

Devasthanam proposed that the promotion should be from the feeder category of Electrician/Wireman/Assistant Wireman. The qualifications proposed by the Tirumala Tirupati Devasthanam was diploma in the specified areas or equivalent qualification apart from other qualifications as to length of service and passing of certain departmental tests.

2. The State Government in G.O.Ms.No.261 dated 24-02-2003 Revenue (Endowments III) Department, issued a preliminary notification of amendments to the Engineering Service Rules of the Tirumala Tirupati Devasthanam to incorporate methods of recruitment for the newly created posts of Draughtsman Grade II in the Electrical Branch. The feeder categories and qualifications set out in the preliminary notification for the posts of Draughtsman (Electrical) Grade II were the same as that proposed by the Tirumala Tirupati Devasthanam. The preliminary notification was intended to solicit objections and suggestions from the Tirumala Tirupati Devasthanam and its employees for processing the issue of amendments to the rules. The petitioner sent up a representation dated 24-03-2003 stating that he was working as a Helper (Electrical), had acquired the qualification of B.Tech (E.E.E), and requesting that he be considered for promotion to the post of draughtsman (Electrical), The petitioner sent up a further representation dated 30-03-2003 and 08-07-2003 reiterating the earlier request, and further seeking the consideration of the Government for fixing the ratio of 1:2 as between B.Tech and Diploma Holders in considering promotions to the category of Draughtsman (Electrical) Grade II.

3. After the earliest representation dated 24-03-2004 and prior to receipt of the subsequent representations dated 30-03-2003 and 08-07-2003, the State Government issued final notification of the amendments, in G.O.Ms.No.909 dated 20-08-2003. The petitioners request for including the post of Helper (Electrical) also as one of the feeder categories was considered and along with the posts of Electrician/Wireman/Assistant Wireman, the post of Helper(Electrical) is also made a feeder category for promotion to the post of Draftsman (Electrical) Grade II. No preference has however been incorporated for Graduates (Engineering) for preferential promotion to the posts of Draghtsman (Electrical) Grade II vis-a-vis non-graduates , nor was the ratio as between graduates and diploma-holders prescribed.

4. The writ petition was filed before the final notification was issued in G.O.Ms.No.909, for a direction to the respondents to include B.Tech qualification as a preferential qualification and prescription of a ratio as between graduates and

diploma-holders for promotion to the post of Draughtsman (Electrical) Grade II.

5. Since the post of a Helper (Electrical) has now been included as a feeder category to the post of Draughtsman (Electrical) Grade II in the final notification of amendments to the Service Rules, in G.O.Ms.No.909, dated 20-08-2003, the petitioner is now qualified for consideration for promotion to the post of Draughtsman (Electrical) Grade II. It is axiomatic that since Diploma is the prescribed qualification, the petitioner a degree holder, is qualified for consideration for such promotion. The petitioner's grievance is however not this. He wants a preference for graduates for such promotion and a quota is to be fixed as between the graduates and non-graduates.

6. The prescription of qualifications for posts in public service, is within the spectrum of executive discretion. The policy choices in this area involve prioritization among a complex spectrum of needs and demands including the nature of the post, the functions to be performed by the holder of the post, the demographic profile of the society in which the employer functions as well as the availability of sufficient number of higher qualified persons in the geographic area, the employment potential for persons qualified and the need to tailor the qualifications prescribed to the functional requirements of the post, salary or other emoluments and a host of such other relevant factors all go into the crucible of the decision making process in this area. These choices are legitimately within the executive domain and normally do not have an adjudicative disposition, and are not subject to curial scrutiny except where the prescription of the qualifications made by the executive is demonstrated to be perverse, arbitrary or irrational.

7. There is nothing in the amendments notified in G.O.Ms.No.909 that could be categorized as perverse, arbitrary or irrational, warranting either invalidation by this Court or issuance of directions as sought by the petitioner.

8. The fact of the matter however is that while the petitioner's earliest representation dated 24-03-2003 was received by the State Government before the issuance of the final notification in G.O.Ms.No.909, his later representations dated 30-03-2003 and 08-07-2003 have not either been received or considered by the State Government, before the issuance of the impugned notification. The petitioner is a qualified person in employment as a Helper (Electrical) and his expectation for an accelerated promotional avenue to the higher post of Draughtsman (Electrical) Grade II cannot

characterized as an illegitimate aspiration. In the circumstances, he is well within his rights to make a representation to the State Government for consideration of his request. His representations dated 30-03-2003 and 08-07-2003 require to be considered by the State Government.

9. On the analysis of the above, the Writ Petition is disposed of directing the second respondent to consider the petitioner's representations dated 24-03-2003, 30-03-2003 and 08-07-2003, and in case the request of the petitioner commend acceptance by the State Government, the State Government may take appropriate proceedings to accommodate the petitioner's request by issuance of appropriate amendments to the Rules. The Mandamus as sought by the petitioner cannot however be granted.

10. This Writ petition is disposed of as above. The interim order dated 11-03-2004 stands dissolved. There shall be no order as to costs.

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14-07-2004

Jsu/Stp

To

1 The Executive Officer, Tirumala Tirupati Devastanams, Tirumala, Chittoor District

2 The Principal Secretary to Government of Andhra Pradesh.
Revenue(Endowments -III) Department Secretariat Buildings, Hyderabad.

3. 2 CCs to the G.P for Endowments, High Court Buildings, Hyderabad(OUT).

4 2 CD copies.